

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
Charlottesville Division**

ELIZABETH SINES, SETH WISPELWEY,  
MARISSA BLAIR, TYLER MAGILL, APRIL  
MUNIZ, HANNAH PEARCE, MARCUS  
MARTIN, JOHN DOE, JANE DOE 1, JANE  
DOE 2, and JANE DOE 3,

Plaintiffs,

v.

JASON KESSLER, RICHARD SPENCER,  
CHRISTOPHER CANTWELL, JAMES  
ALEX FIELDS, JR., VANGUARD  
AMERICA, ANDREW ANGLIN,  
MOONBASE HOLDINGS, LLC, ROBERT  
“AZZMADOR” RAY, NATHAN DAMIGO,  
ELLIOT KLINE a/k/a/ ELI MOSELY,  
IDENTITY EVROPA, MATTHEW  
HEIMBACH, MATTHEW PARROTT a/k/a  
DAVID MATTHEW PARROTT,  
TRADITIONALIST WORKER PARTY,  
MICHAEL HILL, MICHAEL TUBBS,  
LEAGUE OF THE SOUTH, JEFF SCHOEP,  
NATIONAL SOCIALIST MOVEMENT,  
NATIONALIST FRONT, AUGUSTUS SOL  
INVICTUS, FRATERNAL ORDER OF THE  
ALT-KNIGHTS, MICHAEL “ENOCK”  
PEINOVICH, LOYAL WHITE KNIGHTS OF  
THE KU KLUX KLAN, and EAST COAST  
KNIGHTS OF THE KU KLUX KLAN a/k/a  
EAST COAST KNIGHTS OF THE TRUE  
INVISIBLE EMPIRE,

Defendants.

**Civil Action No. 3:17-cv-00072-NKM**

**JURY TRIAL DEMANDED**

**DOE PLAINTIFFS’ MOTION TO PROCEED UNDER PSEUDONYMS AND  
MEMORANDUM IN SUPPORT**

## INTRODUCTION

The Doe Plaintiffs are an African-American man and three female members of a Jewish synagogue in Charlottesville, who protested Defendants' neo-Nazi and white supremacist march in Charlottesville on August 11-12, 2017, and were attacked and threatened by Defendants, co-conspirators, and their supporters. The Court should permit the Doe Plaintiffs to proceed under pseudonyms in this case to protect them from further threats and physical and emotional harm.

Defendants, their co-conspirators, and their supporters openly advocate and planned for violence against the Doe Plaintiffs, and have already physically attacked and threatened them. Defendant and co-conspirator James Fields hit one of the Doe Plaintiffs with a car in a deadly attack that killed one person and injured dozens of others, causing her to suffer severe injuries. He barely missed another Doe Plaintiff in the same attack, but she was close enough that her shirt was sprayed with the blood of the victims. Defendants and co-conspirators attacked individuals, including other Doe Plaintiffs, with mace or another type of caustic substance, and made threats against all of them, including "let's fucking gas the kikes and have a race war" and called for "ethnic cleansing." Defendants do not even try to hide their calls for violence against the Doe Plaintiffs, as they openly proclaim "we look up to men like Adolf Hitler . . . as inspirations for what we can achieve."

Defendants also have a practice of disclosing and publishing the identities of individuals that oppose their message and conduct, so that those individuals become greater targets for violence and threats from Defendants, their co-conspirators, and sympathizers.

Unless the Doe Plaintiffs are allowed to proceed anonymously, their identities will be public and they will be subject to further violence and threats from Defendants, co-conspirators,

and their supporters because of their race, religion, status as plaintiffs, and because they protested Defendants' hateful beliefs.

## FACTS

### **A. The Doe Plaintiffs.**

Plaintiff Jane Doe 1 is a female Jewish undergraduate at University of Virginia ("UVA"). Jane Doe 1 Declaration (*Exhibit 1*), ¶ 2. She is the daughter of Jane Doe 2 and sister of Jane Doe 3. *Id.*, ¶ 3.

Plaintiff Jane Doe 2 is a female member of Congregation Beth Israel and a resident of Charlottesville, Virginia. She is the mother of Jane Doe 1 and Jane Doe 3. Jane Doe 2 Declaration (*Exhibit 2*), ¶ 3.

Plaintiff Jane Doe 3 is a female Jewish resident of Charlottesville, Virginia. She is the sister of Jane Doe 1 and daughter of Jane Doe 2. Jane Doe 3 Declaration (*Exhibit 3*), ¶ 3.

Plaintiff John Doe is an African-American male resident of Charlottesville, Virginia and a student at UVA. John Doe Declaration (*Exhibit 4*), ¶ 2.

### **B. Defendants Commit and Promote Racist and Anti-Semitic Violence.**

Defendants are neo-Nazis, Klansmen, and white supremacists who espouse racist and anti-Semitic ideologies and conspired to cause the violence and harassment in Charlottesville on August 11 and 12. Compl., ¶¶ 21-45. Defendants and their followers explicitly advocate violence against African Americans and Jews, and several Defendants have committed such violence. Their hate-based violence and threats are well documented, and include:

- On August 12, 2017, Defendant Fields drove a Dodge Challenger into a crowd of peaceful counter-protesters in Charlottesville, injuring dozens -- including several plaintiffs in this case -- and killing a 32-year old woman, Heather Heyer. *Id.*, ¶ 24. He is charged with second degree murder, malicious wounding, and hit and run. *Id.*

- After Defendant Fields’s attack, Defendant Loyal White Knights changed its outgoing voicemail message to say: “Nothing makes us more proud at the KKK than when we see white patriots such as James Fields, Jr., age 20, taking his car and running over nine communist anti-fascist, killing one nigger-lover named Heather Heyer. James Fields hail victory. It’s men like you that have made the great white race strong and will be strong again.” *Id.*, ¶ 44.
- Defendant Tubbs previously served a four-year prison sentence for planning to bomb Jewish- and black-owned businesses in Florida. *Id.*, ¶ 36.
- Defendant Kessler attacked a man in downtown Charlottesville while collecting signatures for his petition to remove the African-American vice mayor, Wes Bellamy, from the Charlottesville City Council. *Id.*, ¶ 21.
- Defendant Cantwell suggests to his followers “let’s fucking gas the kikes and have a race war.” Compl., ¶ 23. He has been charged with two felony counts of illegal use of tear gas and one felony count of malicious bodily injury by means of a caustic substance for his actions in Charlottesville on August 11-12. *Id.*, ¶ 23.
- Defendant Daily Stormer calls its website the “world’s most genocidal” website, and includes sections titled “Jewish Problem” and “Race War.” *Id.*, ¶ 26.
- Defendant Ray threatened to intimidate and harass Charlottesville’s Jewish population, carried a banner (later posted on Defendant Daily Stormer’s website) that read: “Gas the kikes, race war now!” *Id.*, ¶ 187.
- Defendant Spencer has called for “ethnic cleansing.” *Id.*, ¶ 22.
- In the run-up to the Charlottesville rally, Defendant Hill tweeted: “If you want to defend the South and Western civilization from the Jew and his dark-skinned allies, be at Charlottesville on 12 August,” and Defendant Daily Stormer wrote “Next stop: Charlottesville, VA. Final stop: Auschwitz.” *Id.*, ¶ 4, 94.
- Defendant Heimbach, co-chair of the umbrella organization of approximately twenty white supremacist organizations, Klan groups, and neo-Nazi groups, has explained “we look up to men like Adolf Hitler . . . as inspirations for what we can achieve.” *Id.*, ¶ 32.
- Defendant Traditionalist Worker Party has said: “Trust nobody who fails to name the Jew, who fails to explicitly and consistently oppose the Jew, and who preaches cleverness or nuance on the JQ [Jewish Question].” *Id.*, ¶ 34.
- Defendant Nationalist Front was conceived to be “the thread that would unite white supremacist and white nationalist circles.” *Id.*, ¶ 40.
- Defendant Augustus Sol Invictus has said that a violent, second Civil War is necessary. *Id.*, ¶ 41.

Many of Defendants utilize social media and other platforms allowing them to reach and mobilize scores of devout followers. *See id.*, ¶¶ 21-45. Not only do the Defendants themselves murder, attack, threaten and/or harass Jews and non-whites, they urge and conspire with their compatriots to engage in similar actions in the name of neo-Nazism and white supremacy. *Supra*, pp. 2-3. Defendants organized and promoted a neo-Nazi and white supremacist march in Charlottesville, Virginia, that took place on August 11-12, 2017. Compl., ¶¶ 1, 3. The marchers came from all over to attend. *Id.*, ¶ 1. The purpose of the march was to inflict violence and instill fear on people who are targets of Defendants' hatred, specifically Jews and African Americans such as John Doe and Jane Does 1-3. *Id.*, ¶¶ 21-45.

Defendants and their co-conspirators also engage in a practice known as “doxing,” where they ascertain and then publish the personal information (such as names and addresses), of people who oppose them or who are the targets of their hate. Compl., ¶¶ 127, 130-32. For example, Defendant East Coast Knights published on the internet the home address of a woman who opposed it, and told its followers “[w]e will be having a rally at this address next week. Bring your own torch.” *Id.*, ¶ 125. Another co-conspirator posted the address of a block party in Charlottesville, describing it as a “Negro block party,” and urged other white supremacists to attend, prompting one follower to suggest “[w]e shank them.” *Id.*, ¶ 126. When Defendants' opponents are identified, they are often subjected to death threats or other harm by Defendants or their supporters. Indeed, the mother of the woman who was killed by Defendant Fields has already received scores of death threats just for speaking out against Defendants and their cause.<sup>1</sup>

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<sup>1</sup> John Bowden, Mother of Charlottesville Victim Has Received Death Threats, The Hill (Aug. 17, 2017, 9:03 PM), <http://thehill.com/homenews/news/347044-mother-of-charlottesville-victim-has-received-death-threats> (last visited Nov. 13, 2017).

**C. Defendants' Violence and Harassment on August 11, 2017.**

On August 11, 2017, Defendants organized and engaged in a torchlight march in Charlottesville, which was to culminate at the statue of Thomas Jefferson near the Rotunda at UVA. *Id.*, ¶ 133; *Exhibit 1*, ¶ 4; *Exhibit 4*, ¶ 3. John Doe and Jane Doe 1 -- a male African American and a female Jew, respectively -- were part of a small group of around 30 community members and students who had gathered at the Rotunda to peacefully protest Defendants' march. *Exhibit 1*, ¶ 4; *Exhibit 4*, ¶ 3.

As Defendants' mob reached the steps of the Rotunda, hundreds of neo-Nazis and white supremacists descended upon John Doe, Jane Doe 1, and the others in their group who had locked arms around the Thomas Jefferson statue. *Exhibit 1*, ¶ 5; *Exhibit 4*, ¶ 4. The mob encircled John Doe and Jane Doe 1 and the other students, and blocked them from leaving the area. *Exhibit 1*, ¶ 5; *Exhibit 4*, ¶ 4. Defendants and their co-conspirators shouted threats and racist and anti-Semitic chants, including making monkey noises at the black protesters, and shouting "blood and soil" (a Nazi slogan) and "Jews will not replace us." *Exhibit 1*, ¶ 5; *Exhibit 4*, ¶ 4. At one point, Defendant Ray shouted, "The heat here is nothing compared to what you're going to get in the ovens!" Compl., ¶ 156. John Doe was one of the few African-American men present, and he and Jane Doe 1 were each terrified and feared for their lives. *Exhibit 1*, ¶ 5; *Exhibit 4*, ¶¶ 3-4. Members of Defendants' mob also sprayed John Doe and Jane Doe 1 with mace or another type of caustic substance, which caused their eyes to burn and made it difficult to breathe. *Exhibit 1*, ¶ 5; *Exhibit 4*, ¶ 4.

As Defendants and their co-conspirators entrapped the peaceful protesters, they began to throw their torches at the students. *Exhibit 4*, ¶ 4. Fearing for their lives, John Doe and Jane Doe 1 struggled to escape and eventually fled, while Defendants, with their followers and co-

conspirators climbed to the top of the Thomas Jefferson statue and waved their torches high in the air, yelling, “Hail Spencer! Hail victory!” Compl., ¶ 160; *Exhibit 1*, ¶ 5; *Exhibit 4*, ¶ 4.

**D. Defendants’ Violence and Harassment on August 12, 2017.**

The following day, August 12, 2017, John Doe and Jane Does 1-3 all peacefully protested Defendants’ march. *Exhibit 1*, ¶ 6; *Exhibit 2*, ¶ 4; *Exhibit 3*, ¶ 4; *Exhibit 4*, ¶ 5. During the march, Defendants and their supporters carried anti-Semitic signs, wore Nazi swastikas, and yelled and chanted anti-Semitic, racist, and pro-Nazi slogans, such as “Heil Hitler,” “Jews will not replace us,” and “blood and soil.” *Exhibit 3*, ¶ 5; *Exhibit 4*, ¶ 5.

At one point, Jane Doe 1 and Jane Doe 3 were on Fourth Street in downtown Charlottesville, when Defendant Fields intentionally drove a car into the crowd of peaceful protesters, killing a 32-year old woman, Heather Heyer, and injuring dozens of others. Compl., ¶¶ 226-30; *Exhibit 1*, ¶ 7; *Exhibit 3*, ¶ 7. Jane Doe 1 was directly hit by Defendant Fields’s vehicle. *Exhibit 3*, ¶ 9. Her sister, Jane Doe 3, who had been steps away from the attack, was so close to the impact that blood of the victims sprayed onto her shirt. *Exhibit 3*, ¶ 8. In the commotion after the attack, Jane Doe 3 initially could not find Jane Doe 1, but eventually found her lying on the ground in shock and seriously injured. *Exhibit 3*, ¶ 9. The crash broke both of her legs, and caused severe contusions, a concussion, and bleeding from her head. *Exhibit 1*, ¶¶ 8-9; *Exhibit 3*, ¶ 9. Jane Doe 3 remained by her sister’s side and helped provide first aid for nearly 30 minutes while they waited for an ambulance to take them to the emergency room. *Exhibit 1*, ¶ 8; *Exhibit 3*, ¶ 10.

When the girls arrived at the hospital, Jane Doe 3 called her mother, Jane Doe 2, to let her know what happened. *Exhibit 2*, ¶ 6; *Exhibit 3*, ¶ 10. When she arrived at the hospital it was on lockdown due to the mass casualty event and was not allowing any family members of the

wounded to enter. *Exhibit 2*, ¶ 6; *Exhibit 3*, ¶ 10. Jane Doe 2 finally found Jane Doe 3, who collapsed into her mother's arms, physically and emotionally exhausted. *Exhibit 2*, ¶ 6; *Exhibit 3*, ¶ 10.

When Jane Doe 2 was finally able to enter the hospital, she waited to hear any updates about her daughter's condition. *Exhibit 2*, ¶ 7. Watching the news in the waiting room, Jane Doe 2, for the first time, saw the video of Defendant Fields driving into the crowd where her daughters had been -- playing over and over on television. *Id.*

Jane Doe 1 required major surgery to repair bone and multiple ligaments, and spent several days in the hospital. *Exhibit 1*, ¶ 9. Her recovery will take over a year and will require extensive physical therapy sessions several times each week. *Id.* In addition to her severe physical injuries, Jane Doe 1 also suffered emotional distress as a result of the attack. *Exhibit 1*, ¶ 9. She has been unable to return to school full time. *Id.*

Jane Doe 2, who was with her daughters shortly before the attack, has been unable to resume a normal life. *Exhibit 2*, ¶ 8. She spends much of her time caring for her daughter, Jane Doe 1. *Id.* She has sought psychological support for herself and her family, and suffers from anxiety, which manifests in difficulty sleeping and difficulty focusing. *Id.*

Jane Doe 3, who only narrowly missed being struck in the attack, suffered severe emotional distress as a result of Defendants' conduct and attack on August 12. *Exhibit 3*, ¶ 11. She spends a significant amount of time taking care of her sister, Jane Doe 1, and has not been able to work or seek employment as a result. *Id.* She suffers from crippling anxiety, has had difficulty sleeping and focusing, and has become hyper-vigilant and severely anxious in public spaces after the attack. *Id.*



John Doe suffered numerous emotional injuries as a result of the events on August 11-12, 2017. *Exhibit 4*, ¶ 6. He has had difficulty focusing in school, and when he walks past the Thomas Jefferson statue on campus, he immediately recalls the harm, threats, and fear he suffered. *Id.* He has also had trouble sleeping and developed a heightened, anxious sense of awareness in public spaces. *Id.*

After the events on August 11-12, the Doe Plaintiffs met with a security expert and have taken steps to increase their safety and guard against further harm from Defendants and their supporters. *Id.*, ¶ 7; *Exhibit 1*, ¶ 10; *Exhibit 2*, ¶ 9; *Exhibit 3*, ¶ 12.

## **ARGUMENT**

### **I. THE COURT SHOULD PERMIT THE DOE PLAINTIFFS TO PROCEED ANONYMOUSLY.**

#### **A. The Court Has Discretion to Allow Plaintiffs to Proceed Anonymously.**

“Federal courts traditionally have recognized that in some cases the general presumption of open trials -- including identification of parties and witnesses by their real names -- should yield in deference to sufficiently pressing needs for party or witness anonymity.” *James v. Jacobson*, 6 F.3d 233, 242 (4th Cir. 1993). “The crucial interests served by open judicial proceedings are not compromised by allowing a party to proceed anonymously,” because “[i]f a plaintiff is granted leave to proceed under a pseudonym, the public is not denied its right to attend the proceedings or inspect the court’s opinions and orders.” *Doe v. Alger*, 317 F.R.D. 37, 39 (W.D. Va. 2016) (citations omitted). Thus, a federal court may exercise its discretion to allow parties to proceed anonymously. *James*, 6 F.3d at 242.

In deciding whether to allow a party to proceed under a pseudonym, the Court will balance the party’s interest in anonymity against the public interest in openness and any prejudice to the defendants. *Int’l Refugee Assistance Project v. Trump*, 2017 WL 818255, at \*1

(D. Md. 2017). Under this analysis, the Fourth Circuit has identified a non-exhaustive list of factors the Court should consider:

- (1) whether the justification asserted by the requesting party is merely to avoid the annoyance and criticism that may attend any litigation or is to preserve privacy in a matter of sensitive and highly personal nature;
- (2) whether identification poses a risk of retaliatory physical or mental harm to the requesting party or even more critically, to innocent non-parties;
- (3) the ages of the persons whose privacy interests are sought to be protected;
- (4) whether the action is against a governmental or private party; and
- (5) the risk of unfairness to the opposing party from allowing an action against it to proceed anonymously.

*Id.* (citing *James*, 6 F.3d at 238-39). Consideration of these factors show the Court should exercise its discretion to allow the Doe Plaintiffs to proceed under pseudonyms.

**B. The Doe Plaintiffs Already Suffered Violence and Harm from Defendants and Their Supporters, and Are at Risk of Further Retaliatory Harm.**

Courts routinely permit plaintiffs to proceed anonymously where there is a risk they could be subject to “retaliation, physical harm or harassment” if their identities are disclosed. *E.g.*, *Trump*, 2017 WL 818255, at \*1-2 (allowing plaintiffs to proceed under pseudonyms where there was a risk plaintiffs would be subjected to physical harm if their identities were disclosed); *Alger*, 317 F.R.D. at 40 (“Doe’s identification . . . would likely increase his risk of [physical or mental] harm from other persons.”); *Doe v. New Ritz, Inc.*, 2015 WL 4389699, at \*2 (D. Md. 2015) (allowing plaintiff to proceed under pseudonym where she had a “fear of physical and mental harm” as a result of retaliation by defendants); *see also Doe v. Stegall*, 653 F.2d 180, 186 (5th Cir. 1981) (“Evidence on the record indicates that the Does may expect extensive harassment and perhaps even violent reprisals if their identities are disclosed.”); *Doe v. Shakur*, 164 F.R.D. 359, 362 (S.D.N.Y. 1996) (“Plaintiff’s allegation that she has been subjected to death

threats would provide a legitimate basis for allowing her to proceed anonymously.”); *Doe v. Barrow County, Ga.*, 219 F.R.D. 189, 193 (N.D. Ga. 2003) (allowing plaintiff to proceed anonymously where others sharing her view received “boos” and were told to “shut up and sit down,” and plaintiff feared retaliation for filing the lawsuit). This factor “weighs heavily” on the analysis. *Trump*, 2017 WL 818255, at \*2.

If a plaintiff was already threatened or harmed by a defendant, that alone is a sufficient basis to find there is a risk of retaliation, harm or harassment. *Javier H. v. Garcia-Botello*, 211 F.R.D. 194, 196 (W.D.N.Y. 2002) (allowing use of pseudonym where “[d]efendants have threatened [plaintiffs] with violence in the past, and have demonstrated a willingness to carry out those threats.”); *Roe v. Providence Health Sys.-Or.*, 2007 WL 1876520, at \*2 (D. Or. 2007) (allowing use of pseudonym where plaintiff “suffered past violence” inflicted by defendant).

The risk of harm does not need to be certain or even probable. Rather, even “[p]otential retaliatory physical or mental harm” is a sufficient basis to proceed anonymously. *Trump*, 2017 WL 818255, at \*2. It is enough that a plaintiff “fears that disclosure of his participation in this case *could* result in retaliation” or that she “*may* be harassed.” *Id.* at \*2 (emphasis added) (citing *Does I thru XXIII v. Advanced Textile Corp.*, 214 F.3d 1058, 1071 (9th Cir. 2000) (explaining it is enough if plaintiffs “fear” retaliation, and they “do *not* need to prove that they face a danger of physical injury”) (emphasis in original)).

Courts will also permit anonymity if the disclosure of a plaintiff’s identity could jeopardize the safety of their family members or subject them to harm or harassment. *Trump*, 2017 WL 818255, at \*1 (allowing plaintiffs to proceed anonymously where harm could come “to themselves or innocent family members”); *Nelson v. Green*, 2007 WL 984127, at \*2 (W.D. Va. 2007) (allowing plaintiff-father to proceed anonymously to protect identity of plaintiff-daughter).

Here, this factor “weighs heavily” in the Doe Plaintiffs’ favor.

**First**, the Doe Plaintiffs have all already been physically and/or emotionally injured by the actions of Defendants and their supporters and co-conspirators. Defendant Fields struck Jane Doe 1 with a car, causing severe physical injuries, including two broken legs. *Supra*, pp. 6-7. Other co-conspirators sprayed John Doe and Jane Doe 1 with mace, and showered them with threats and insults. *Supra*, pp. 4-5. Jane Doe 3 narrowly missed the car attack, but suffered the emotional trauma of her sister being run over right beside her. *Supra*, pp. 6-7. Jane Doe 2 had to watch video of Defendant Fields intentionally running over her daughter with a car, causing her severe anxiety and requiring her to seek professional psychological support. *Supra*, pp. 6-7.

**Second**, if their identities are revealed, it is likely Doe Plaintiffs will face further retaliatory harm and harassment. Defendants have repeatedly conspired to cause, called for, and supported violence and harassment directed at African Americans, Jews, and others who protest on their behalf, suggesting, for example, that people “gas the kikes” and start “ethnic cleansing.” *Supra*, pp. 2-3. And, Defendants are well-known for publicly revealing and disseminating the identities of people who speak out against them, encouraging and eliciting further threats of violence, and potentially acts of violence, against innocent people -- such as the Doe Plaintiffs -- who oppose Defendants’ race-based hatred. *Supra*, p. 3. The disclosure of the Doe Plaintiffs’ identities will expose them to additional harm by Defendants, their co-conspirators and other sympathizers of Defendants who want to show support for the neo-Nazi and white supremacy cause. After surviving Defendants’ violence on August 11-12 -- including a car attack that already killed one peaceful protester -- the Court should not force the Doe Plaintiffs to risk exposure to further retaliatory violence, threats, or harassment at the hands of Defendants, their co-conspirators, or their supporters.

*Third*, the Jane Does are all closely related family members. Thus, if any of them are denied the right to proceed anonymously, it would be easy for Defendants or an assailant to identify the others, which would jeopardize their safety and subject them to harm or harassment. *Trump*, 2017 WL 818255, at \*1 (allowing plaintiffs to proceed anonymously where disclosure of their true names could result in harm to “innocent family members”).

**C. Identification of the Jane Doe Plaintiffs Would Reveal Their “Highly Personal” Religious Identity.**

Courts will allow a plaintiff to proceed anonymously if the plaintiff seeks to do so, not to avoid “annoyance and criticism,” but to preserve “highly personal” information that the plaintiff does not want defendants or others to associate with her. *Trump*, 2017 WL 818255, at \*2 (granting permission to proceed anonymously where plaintiffs’ “religious faith . . . if disclosed, could jeopardize their safety”); *New Ritz, Inc.*, 2015 WL 4389699, at \*2 (“Doe is not merely concerned with avoiding annoyance or criticism; her un rebutted affidavit articulates a legitimate fear of physical and mental harm.”). “[R]eligion is perhaps the quintessentially private matter.” *Stegall*, 653 F.2d at 186; *Trump*, 2017 WL 818255, at \*2 (“[A] privacy concern relating to religious faith . . . [is] sensitive and personal in nature.”); *Doe v. Porter*, 370 F.3d 558, 560 (6th Cir. 2004) (holding “personal beliefs and practices” are a “private matter” and allowing plaintiffs to proceed anonymously).

Here, Defendants espouse pro-Nazi beliefs, hatred and violence toward Jews, suggested that people “gas the kikes,” call for “ethnic cleansing,” urge their supporters to “defend the South and Western civilization from the Jew,” propose “Final Stop: Auschwitz,” say they “look up to men like Adolf Hitler,” and demand that others “consistently oppose the Jew.” *Supra*, pp. 2-3. Jane Does 1-3 are members of a Jewish synagogue in Charlottesville. Thus, the public identification of the Jane Does would allow Defendants to identify them as prime targets of their

violence and hatred. This “could jeopardize their safety,” and would only exacerbate the likelihood of further harm, threats, and harassment the Jane Does would receive from Defendants and their supporters. *See Trump*, 2017 WL 818255, at \*2.

**D. Defendants Will Not Be Prejudiced.**

There will be no prejudice to Defendants by the Doe Plaintiffs proceeding anonymously. There are eleven plaintiffs in this case, and countless witnesses to Defendants’ conduct, so many of the relevant facts will come from witnesses other than the Doe Plaintiffs. *Barrow County, Ga.*, 219 F.R.D. at 194 (holding there was no prejudice from plaintiff proceeding anonymously because many facts “will likely come from witnesses other than the plaintiff”). And, Plaintiffs’ counsel will disclose the Doe Plaintiffs’ identities to the Court, and will negotiate an appropriate protective order with defense counsel if, for example, “attorney’s eyes only” treatment of the Does’ identities is appropriate.<sup>2</sup> *E.g., id.* at 193 (allowing plaintiff to proceed anonymously where her identity would be revealed to the court and counsel for the defense).

**E. The Other Factors Do Not Outweigh Plaintiffs’ Interest in Proceeding Anonymously.**

The remaining factors -- whether any plaintiffs are minors, and whether the lawsuit is against the government -- do not apply. *See New Ritz, Inc.*, 2015 WL 4389699, at \*2 (granting permission to proceed anonymously, and noting that where parties were not minors, “[t]he third factor does not apply”). Thus, the only applicable considerations weigh heavily in favor of the Doe Plaintiffs proceeding anonymously in this case.

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<sup>2</sup> Defendants’ counsel, for the most part, has not yet entered an appearance in this matter, so Plaintiffs’ counsel cannot yet consider the propriety of disclosing the Doe Plaintiffs’ identities to defense counsel under an “attorney’s eyes only” designation.

## CONCLUSION

For the foregoing reasons, the Court should grant this Motion and order that the Doe Plaintiffs may proceed anonymously.

Dated: November 13, 2017

Respectfully submitted,

s/ Robert T. Cahill

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## CERTIFICATE OF SERVICE

I hereby certify that on November 13, 2017, I filed the foregoing with the Clerk of Court through the CM/ECF system, which will send a notice of electronic filing to:

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I further hereby certify that on November 13, 2017, I also served the following non-ECF participants, via U.S. mail, First Class and postage prepaid, addressed as follows:

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